11/6/74

Dear Jim,

I left on the month's second trip to Memphis 10/16. I got back over the weekend. I haven't quite finished typing notes and refiling what I took for the Ray hearing. Tomorrow someone is coming so I'll not get much done then. Thus before bed a hasty response to your euphoric letter of the 22nd, the day the hearing started officially.

I made an effort to reassemble the xerox sections of trashy news stories and just gave it up. Didn't see how they fit. For trash and with my fatigue, it wasn't worth the effort. I filed them in that stack of garbage for the future, the way you sent them, unread. I knew enough of what they say and it is all bad and all irresponsible and worse, all apparently sincere.

This is the trouble with people who confabulate and are zealots. They believe what they want to believe, not what fact establishes; and from belief the certainty of the unfactualy becomes fixed.

I would feel much less uncomfortable if I could understand why Bob has been doing this. I finally got him to shut up but by then it was too late. He believes what he wants to, disregards all that disproves what he wants to believe, and then he spouts. It has been very hurtful because he is counsel.

He even took nuts to see Ray, who refused to see them.

Anyway, we built a good record in the evidentiary hearing and established a precedent in the course of it, discovery under habeas corpus.

The odds were heavy, there was much we couldn't get to do, we had no time for the essential, but somehow I think we succeeded despite the odds. There are not 30 days in which to file written closing arguments then 15 more for rebuttal.

In it, while inherently we addressed more, explicitly we addressed what I call irremedial violations of Ray's constitutuonal rights (we got proof that his mail was intercepted and sent to the prosecutor who xeroxed even that with lawyers and the judge); ineffectiveness of counsel (by addressing the ignored exculpatory evidence); and irreconcilable conflicts of interest on the parts of the earlier lawyers. On any one of these issues he can be granted a trial. On the first all prosecution can be thrown out. The State has to be crazy to persevere with what they have to know we now can prove. But they are hardheads and drunk with the arrogance of power.

It was a very mxx rough period. Too much to do, too few to do it, and not enough time. Senior counsel were entirely unprepared. Jim and I carried the entire load except for a few courtroom examinations. In five cases I drafted questions to be asked of witnesses the lawyers had never seen and I had interviewed, in three cases, more than three and a half years ago. One I'd never seen and the other I'd spoken to for about 5 minutes. The hostile, who the judge would not declare hostile, perjured himself and because of the artificialities we are saddled with that. The others stacked up magnificently. Give you a notion of what it was like. What was great fun was kidnapping all their rebuttal witnesses. They finally stopped putting on a rebuttal because it became ours. They also provided a fake list of witnesses and used only surprise witnesses. We still took 'em over, on the spot. Fortunately, where there were technical questions, I was expert in the field. But how I regretted not being a lawyer so I could have questioned!

Hope your effort with the Congress does not disappoint. There are more obstacles than you can visualize or anticipate and the men interested do not carry enough weight. They also don't know enough and some of what they think they know just isn't fact. So, please try to see the hazards and not be disappointed. I've stayed away because I can do only so much and I see no prospect of success. Instead I do what I think may in the end serve better.

Thanks and best regards.